

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Conor O'Shea	Team: Squad #6	CCRB Case #: 201909384	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/27/2018 6:00 PM	Location of Incident: § 87(2)(b)	Precinct: 78	18 Mo. SOL 4/27/2020	EO SOL 12/12/2020	
Date/Time CV Reported Fri, 11/02/2018 11:47 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 11/02/2018 11:47 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Thomas Chan	01232	941535	078 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lisandro Pena	11685	952101	078 PCT
2. POM Jianwei Chen	08758	933689	071 PCT
3. POM Martin Ortiz	03209	949428	071 PCT
4. POF Diane Hopkins	25021	952861	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Thomas Chan	Abuse: Sergeant Thomas Chan threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)

### Case Summary

On November 2, 2018, § 87(2)(b) filed this complaint in person at the CCRB during an interview for CCRB case # § 87(2)(b).

On October 27, 2018, at approximately 6:00 p.m., Police Officer Jianwei Chen and Police Officer Martin Ortiz, both from the 71<sup>st</sup> Precinct, responded to a radio-run for a family dispute at § 87(2)(b)'s apartment, located at § 87(2)(b), in Brooklyn, between § 87(2)(b) and her adult daughter, § 87(2)(b). Sergeant Thomas Chan and Police Officer Lisandro Peña, both from the 78<sup>th</sup> Precinct, responded as well. Sgt. Chan threatened to remove § 87(2)(b) to the (Allegation A: Abuse of Authority, § 87(2)(g)). No arrest or summons resulted. EMS evaluated § 87(2)(b) on scene but she did not go to the hospital.

There is no video evidence in this case. Neither the 71<sup>st</sup> Precinct, nor the 78<sup>th</sup> Precinct, had begun participating in the body-worn camera (BWC) program as of October 27, 2018.

### Findings and Recommendations

#### **Allegation A—Abuse of Authority: Sergeant Thomas Chan threatened to remove § 87(2)(b) to the hospital.**

The following facts are undisputed. At the time of this incident, § 87(2)(b) lived at § 87(2)(b); her daughter, § 87(2)(b) owned the building and lived on the first floor but also shared living space with § 87(2)(b) on the ground floor; and § 87(2)(b)'s eldest son, § 87(2)(b) lived on § 87(2)(b). § 87(2)(b) was a “hoarder,” and her apartment was filled with clutter, including Amazon boxes and other personal items, leaving an approximately one- to two-foot wide walkway around the ground floor. Officers from the 78<sup>th</sup> Precinct frequently responded to minor family disputes between § 87(2)(b) and § 87(2)(b). On October 27, 2018, shortly before 6:00 p.m., § 87(2)(b) called 911 to report that § 87(2)(b) had “stolen” an alarm. She had called 911 and the 78<sup>th</sup> Precinct several times that day for similarly minor disputes. Shortly after 6:00 p.m., PO Ortiz and PO Chen responded to her apartment. § 87(2)(b) and § 87(2)(b) argued with, and yelled at, one another. Sgt. Chan and PO Peña also responded, as did EMS. Sgt. Chan threatened to forcibly remove § 87(2)(b) to the hospital but EMS was not present at this time. EMS later evaluated § 87(2)(b). She did not go to the hospital. § 87(2)(b) did not make any threatening statements. None of the NYPD officers on scene believed that § 87(2)(b) posed a risk of injuring herself or others.

§ 87(2)(b) (Board Review 01) testified that Sgt. Chan threatened to remove her to the hospital if she kept calling 911, and that he did so while he spoke with § 87(2)(b). § 87(2)(b) informed § 87(2)(b) of this after the fact.

§ 87(2)(b) (Board Review 02) provided a telephone statement. Although he remembered having a conversation with Sgt. Chan about § 87(2)(b) going to the hospital, he did not have a strong recollection of this incident and did not remember whether Sgt. Chan threatened to remove § 87(2)(b) to the hospital. § 87(2)(b) did not remember additional context to the conversation besides Sgt. Chan asking if he wanted § 87(2)(b) taken away.

§ 87(2)(b) (Board Review 03) provided a telephone statement. Sgt. Chan spoke with § 87(2)(b) about going to the hospital, but § 87(2)(b) did not remember the specifics of this conversation. When § 87(2)(b) arrived on scene, Sgt. Chan spoke with him and asked for his relatively impartial opinion—given that he had not taken a side in the ongoing family dispute between § 87(2)(b) and § 87(2)(b) about whether § 87(2)(b) needed to go to the hospital. § 87(2)(b) did not remember many specifics of this conversation, either, though.

Sgt. Chan's memo book entries for this incident (Board Review 04) note that he did not believe § 87(2)(b) was a danger to herself or others, but that he believed she was mentally ill and suffered from paranoia. Sgt. Chan (Board Review 05) testified that, approximately 30 minutes before responding to § 87(2)(b)'s apartment, he spoke with PO Hopkins, who advised him that she believed § 87(2)(b) had “some mental issues” and should seek help. Upon arrival at § 87(2)(b) in Brooklyn, Sgt. Chan spoke to § 87(2)(b) who advised him that § 87(2)(b) frequently

called the police and had an unspecified “mental issue.” Sgt. Chan spoke with § 87(2)(b) who yelled and screamed about § 87(2)(b) stealing various items from her. Sgt. Chan did not believe that § 87(2)(b) was a danger to herself for anyone else, but believed that she had a mental illness, specifically “paranoia,” solely because she repeatedly stated that people stole things from her and provided various accounts of which items were stolen. Sgt. Chan advised § 87(2)(b) that he believed she had “some kind of mental issue,” and that he would call EMS. Sgt. Chan asked § 87(2)(b) to cooperate with EMS personnel if they determined she needed to go to the hospital. Sgt. Chan threatened to forcibly remove § 87(2)(b) to the hospital if she refused to cooperate with EMS. After EMS evaluated § 87(2)(b) Sgt. Chan talked to her eldest son, § 87(2)(b) and told him to have his mother evaluated. Sgt. Chan was not sure if he told § 87(2)(b) that § 87(2)(b) could be forcibly removed to the hospital if she continued calling 911.

PO Peña (**Board Review 06**) testified that he was not sufficiently trained to determine whether § 87(2)(b) qualified as an “EDP,” and described her demeanor as “irate” instead. At some point, Sgt. Chan spoke with one of § 87(2)(b)’s sons—identified as § 87(2)(b) but PO Peña was not sure about the context of this conversation. PO Peña did not remember hearing Sgt. Chan threaten § 87(2)(b) with forcibly removing § 87(2)(b) if she kept calling 911.

PO Chen (**Board Review 07**) and PO Ortiz (**Board Review 08**), who first responded to the incident, provided largely consistent statements. Neither PO Chen nor PO Ortiz remembered the specific contents of Sgt. Chan’s conversation with § 87(2)(b). PO Chen did not remember if Sgt. Chan said that if § 87(2)(b) kept calling 911, she would be forcibly removed to the hospital. PO Ortiz denied that he made such a statement.

NYPD Patrol Guide Procedure 221-13 (Board Review 09) requires that members of service take into protective custody and remove to the hospital any individual that a member of service reasonably believes is an Emotionally Disturbed Person (EDP), the definition of which is twofold, and applies only if a person both appears “mentally ill or emotionally disturbed” and “is conducting [herself] in a manner likely to result in a serious injury to [herself] or others.”

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to three other CCRB complaints and has been named as a victim in three other allegations (**Board Review 10**):
  - § 87(2)(g)
  - 
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- Sgt. Chan has been a member of service for 13 years and has been named a subject in seven other CCRB complaints and nine other allegations, none of which have been substantiated.

§ 87(2)(g)

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- According to the New York City Office of the Comptroller, § 87(2)(b) had not filed a Notice of Claim regarding this incident as of October 23, 2019 (**Board Review 11**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: #06

Investigator:	_____	<u>Investigator Conor O'Shea</u>	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	<u>Inv. Manager Jessica Peña</u>	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date